

IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE, :
 :
 :
 v. : I.D. No. 0405000068
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 :
 JASON E. WALKER :
 :
 :
 Defendant. :

Submitted: January 29, 2008
Decided: May 12, 2008

ORDER

This 12th day of May, 2008, upon consideration of the defendant’s motion for postconviction relief pursuant to Superior Court Criminal Rule 61 (“Rule 61”), it appears to the Court that:

1. Jason E. Walker (“Defendant”) was tried in July 2005 on charges that included capital murder, attempted robbery, and weapon offenses. A Superior Court jury convicted the defendant of two counts of first degree murder, five counts of possession of a firearm during the commission of a felony, two counts of attempted first degree robbery, one count of unlawful imprisonment, and one count of conspiracy. After a penalty hearing, the Court sentenced the defendant, among other things, to two terms of life imprisonment.

2. On February 15, 2007, the Delaware Supreme Court affirmed the defendant’s conviction.¹

3. On November 20, 2007, the defendant filed a motion for postconviction relief consisting of a ninety-nine page memorandum of law, alleging the Court erred when it denied his

¹ *Walker v. State*, 2007 WL 481957 (Del. Feb. 15, 2007).

request to proceed *pro se* and ineffective assistance of counsel. Defendant sets forth sixteen arguments in support of the ineffective assistance of counsel claim. He has also filed a three-hundred eighty five (385) page appendix in support of the memorandum.

4. On January 29, 2008, the defendant filed a twenty page Amendment to his memorandum of law.

5. Upon close examination, and after careful consideration of Defendant's opening memorandum of law, and the supplemental memorandum of law in support thereof, (collectively, "memorandum"), the Court finds that Defendant's Rule 61 motion does not meet the requirements of Rule 61(b)(2) regarding the permitted "content" of a motion for postconviction relief. Specifically, Rule 61(b)(2) provides that the "[m]otion shall specify all the grounds for relief which are available to the movant . . . and shall set forth in *summary* form the facts supporting each of the grounds thus specified."²

6. The Court finds that the defendant's one hundred-nineteen page memorandum in support of his motion for postconviction relief far exceeds the intended "summary form" scope and format for seeking collateral relief as enumerated in Rule 61(b)(2).

7. Although the Rule 61 is silent as to the specific permitted length of a motion for postconviction relief, Superior Court Civil Rule 107(g) provides guidance in this area.³ The court seeks to impose a limit for the length of an opening or answering brief to thirty-five pages without leave of Court.⁴ Pursuant to Rule 107(d)(3), (4) and (5), a movant must include within these thirty-five pages, the statement of the case, the facts, the questions presented, and the legal arguments. This prescribed format has been enacted to promote judicial economy, efficiency,

² Super. Ct. Crim. R. 61(b)(2).

³ *State v. Hammons*, 2003 WL 23274833, at *3 (Del Super. Dec. 29, 2003).

⁴ Rule 107(g) provides, in part: *Length of briefs*. Without leave of Court, an opening or answering brief shall not exceed a total of 35 pages and a reply brief shall not exceed 20 pages, exclusive of appendix. Super. Ct. Civ. R. 107(g).

and finality of judgment in an effort to prevent the courts and the parties from being overburdened with lengthy, oblique pleadings and documents.

8. In order to preserve the standards of judicial economy and fundamental fairness, it is within this Court's jurisdiction to deny consideration of a defendant's motion, without reaching a determination on its merits, when there exists a clear and substantial abuse of the remedial safeguards inherent to Rule 61. Accordingly, it is within this Court's discretion not to issue a decision on the merits of the defendant's postconviction motion until the motion complies with the technical requirement of Rule 61(b)(2). As such, the defendant is instructed to resubmit an amended Rule 61 motion for postconviction relief setting forth his claims in a concise, "summary form," of no more than thirty-five pages in accord with Rule 107(g).

9. This motion for postconviction relief was timely filed. The resubmitted motion filed pursuant to this order will be considered timely filed if received by June 13, 2008.

IT IS SO ORDERED.

Judge Susan C. Del Pesco

Original to Prothonotary
xc: John S. Edinger, Esq.
Josette D. Manning, Esq.
Jason E. Walker